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1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF OKLAHOMA

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W. A. DREW EDMONDSON, in his)
5 capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
6 OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
7 in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
8 FOR THE STATE OF OKLAHOMA,)

9 Plaintiff,)

10 vs.)4:05-CV-00329-TCK-SAJ

11 TYSON FOODS, INC., et al,)

12 Defendants.)

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14 VOLUME I OF THE VIDEOTAPED
15 DEPOSITION OF BERTON FISHER, PhD, produced as a
16 witness on behalf of the Defendants in the above
17 styled and numbered cause, taken on the 3rd day of
18 September, 2008, in the City of Tulsa, County of
19 Tulsa, State of Oklahoma, before me, Lisa A.
20 Steinmeyer, a Certified Shorthand Reporter, duly
21 certified under and by virtue of the laws of the
22 State of Oklahoma.

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24

25

Fisher, J. Berton Ph.D. 9/3/2008

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EXHIBIT

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1 correctly?

2 MR. GARREN: Object to form.

3 A No, you're not reading that correctly. I'm

4 simply recording the fact that it is not.

5 Q Is it your opinion that poultry litter should 01:51PM

6 be tilled into the soil in the Illinois River

7 watershed?

8 A I don't have an opinion as to whether or not

9 it should be tilled into the soil. I simply

10 observed that by not tilling it into the soil puts 01:51PM

11 it in a circumstance where it may be more readily

12 transported.

13 Q You, in connection with your work in this

14 case, Dr. Fisher, have had an opportunity to review

15 nutrient management plans issued by the Oklahoma 01:52PM

16 Department of Ag as well as the Arkansas Natural

17 Resources Department; correct?

18 A Yes, I have.

19 Q Do these plans advise users of poultry litter

20 about what they can and cannot do in terms of using 01:52PM

21 poultry litter?

22 A In a general sense, yes.

23 Q Have you seen in any of those plans where the

24 Arkansas Natural Resources Commission or ODAFF has

25 instructed users of poultry litter to till it into 01:52PM

00158

1 the soil?

2 A I have not.

3 Q Have you suggested to Attorney General

4 Edmondson or any of the Oklahoma agencies, including

5 the Oklahoma Department of Ag, that they should 01:52PM

6 consider a requirement that poultry litter be tilled

7 into the soil?

8 MR. GARREN: Object to form.

9 A No, I have not.

10 Q Let's look at Opinion No. 10, which I'll read. 01:52PM

11 For the Record, your Opinion No. 10 is waste

12 generated by poultry within the Illinois River

13 watershed has been applied near to where it is

14 generated. Did I read it correctly?

15 A You did. 01:53PM

16 Q Okay. Look at Page 26. You are referring to,

17 in the second paragraph, to a dataset that you have

18 reviewed. Do you see that reference for the dataset

19 as a whole?

20 A No, I do not, Mr. George. 01:53PM

21 Q Perhaps I can help you. Right there.

22 A Oh. Yes.

23 Q What dataset are you referring to?

24 A Okay. That is the dataset that is based upon

25 the ODAFF records, the Oklahoma Department of 01:53PM